IN THE UNITED STA-TES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	§	
Nobuyoshi Morimoto	§	Examiner: England, David E.
	§	
	§	Group Art Unit: 2143
Serial No. 09/588,879	§	
	§	Atty. Dkt. No.: 5596-00200
Filed: June 6, 2000	§	
	§	
For: System and Method for	§	
Identifying Individual Users	§	
Accessing a Web Site	§	
	§	

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Further to the Notice of Appeal filed December 17, 2007, Appellant presents this Appeal Brief. **This Appeal Brief is filed within one month of Notice of Panel Decision; therefore, no extension of time should be due.** Appellant respectfully requests that the Board of Patent Appeals and Interferences consider this appeal.

I. REAL PARTY IN INTEREST

As evidenced by the assignment recorded at Reel/Frame 012868/0637, the subject application is owned by NIHON DOT.COM CO., LTD., a corporation organized and existing under and by virtue of the laws of the Country of Japan, and also doing business as ColonDot.Com.

II. RELATED APPEALS AND INTERFERENCES

No other appeals, interferences or judicial proceedings are known which would be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

Claims 1-20, 23-30, and 32-37 are pending in the application and stand finally rejected. Claims 21, 22 and 31 have been cancelled. The rejection of claims 1-20, 23-30, and 32-37 is being appealed. A copy of claims 1-20, 23-30, and 32-37 is included in the Claims Appendix herein below.

IV. STATUS OF AMENDMENTS

No amendments have been submitted subsequent to the final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a method for identifying distinct users accessing a web site. (See, e.g., Figure 4; and Title; and p. 1, lines 5-7; and p. 4, lines 4-6; and p. 7, lines 29-30.) The method calls for storing one or more records in a database, where each record includes an Internet address and a time value, and where each record corresponds to a different computer accessing the web site. (See, e.g., Figure 4 (400); and p. 4, lines 17-26; and p. 12, lines 21-22; and p. 14, lines 23-24.) The method also includes receiving a first request from a first computer to access the web site. (See, e.g., Figure 4 (410); and p. 4, line 19; and p. 15, lines 6-7.) The method provides for sending a request for information to the first computer, where the information includes a first Internet address and a first time value corresponding to the first computer. (See, e.g., Figure 4 (420); and p. 4, lines 20-21; and p. 15, lines 8-10.) The method further stipulates receiving that information and determining whether a matching record for the first Internet address and the first time value exists in the database. (See, e.g., Figure 4 (430, 440); and p. 4, lines 21-26; and p. 15, lines 12-14.) Finally the method specifies identifying the first computer as a distinct user if a matching record does not exist in the database. (See, e.g., Figure 4 (450); and p. 15, lines 17-18.)

Independent claim 9 is directed to a system for identifying a distinct computer user accessing a web site. (See, e.g., Figures 3 and 4; and Title; and p. 1, lines 5-7; and p. 4, lines 4-6; and p. 7, lines 29-30.) The system includes a client computer system operated by one or more computer users. (See, e.g., Figure 3 (306, 306a); and p. 8, lines 8-9.) The system includes a web site server computer system. (See, e.g., Figure 3 (302); and p. 4, lines 4-6; and p. 4, lines 19-21.) The client computer system is operable to connect with the web site server for gaining access to the web site in response to requests from computer users. (See, e.g., Figure 3 (304, 312, 322); and p. 13, lines 23-24; and p. 15, lines 6-7.) The web site server stores records in a database, where each record includes an Internet address and a time value, and where each record corresponds to a computer user accessing the web site. (See, e.g., Figure 4 (400); and p. 4, lines 17-26; and p. 12, lines 21-22; and p. 14, lines 23-24.) The web site server receives a first request

from a first computer user to access the web site. (See, e.g., Figure 4 (410); and p. 4, line 19; and p. 15, lines 6-7.) The web site server sends a request for information to the first computer user, where the information includes a first Internet address and a first time value corresponding to the first computer user. (See, e.g., Figure 4 (420); and p. 4, lines 20-21; and p. 15, lines 8-10.) The web site server receives the information and determines whether a matching record for the first Internet address and the first time value exists in the database. (See, e.g., Figure 4 (430, 440); and p. 4, lines 21-26; and p. 15, lines 12-14.) The web site server identifies the first computer user as a distinct computer user if the matching record does not exist in the database. (See, e.g., Figure 4 (450); and p. 15, lines 17-18.)

Independent claim 12 is directed to a system for identifying a distinct computer user accessing a web site. (See, e.g., Figures 3 and 4; and Title; and p. 1, lines 5-7; and p. 4, lines 4-6; and p. 7, lines 29-30.) The system includes a client computer system operated by a computer user. (See, e.g., Figure 3 (306, 306a); and p. 8, lines 8-9.) The system also provides a web site server to connect with the client computer system and provide web site access to the client computer system in response to a request from the computer user. (See, e.g., Figure 3 (302); and p. 13, lines 23-24; and p. 15, lines 6-9.) The client computer is operable to launch web browser software. (See, e.g., p. 4, line 11.) The client computer is operable to execute a program to synchronize time. (See, e.g., p. 4, lines 11-13.) The client computer is operable to send a first request to the web site server to access the web site. (See, e.g., Figure 4 (410); and p. 4, line 19; and p. 15, lines 6-7.) The client computer is operable to receive a request for information from the web site server, where the information includes a first Internet address and a first time value corresponding to the client computer system. (See, e.g., Figure 4 (420); and p. 4, lines 20-21; and p. 15, lines 8-10.) The client computer is operable to send the information. (See p. 4, lines 21-22.)

Independent claim 15 is directed to a tangible, computer-accessible storage medium, including program instructions, where the program instructions are executable by a computer system to implement a method. (See, e.g., Figures 1 and 2; and p. 7, line

30, through p. 8, line 3; and p. 8, lines 17-26.) The method includes storing one or more records in a database, where each record includes an Internet address and a time value, and where each record corresponds to a distinct computer access to a web site. (See, e.g., Figure 4 (400); and p. 4, lines 17-26; and p. 12, lines 21-22; and p. 14, lines 23-24.) The method specifies receiving a first request from a first computer to access the web site. (See, e.g., Figure 4 (410); and p. 4, line 19; and p. 15, lines 6-7.) The method stipulates sending a request for information to the first computer, where the information includes a first Internet address and a first time value corresponding to the first computer. (See, e.g., Figure 4 (420); and p. 4, lines 20-21; and p. 15, lines 8-10.) The method recites receiving that information and determining whether a matching record for the first Internet address and the first time value exists in the database. (See, e.g., Figure 4 (430, 440); and p. 4, lines 21-26; and p. 15, lines 12-14.) Finally the method includes identifying the first computer as a distinct computer user if the matching record does not exist in the database. (See, e.g., Figure 4 (450); and p. 15, lines 17-18.)

Independent claim 16 is directed at a system for identifying a distinct computer user accessing a web site. (See, e.g., Figures 3 and 4; and Title; and p. 1, lines 5-7; and p. 4, lines 4-6; and p. 7, lines 29-30.) The system includes a client computer system operated by one or more computer users. (See, e.g., Figure 3 (306, 306a); and p. 8, lines 8-9.) The system includes a web site server computer system. (See, e.g., Figure 3 (302); and p. 4, lines 4-6; and p. 4, lines 19-21.) The client computer system is operable to connect with the web site server for gaining access to the web site in response to requests from computer users. (See, e.g., Figure 3 (304, 312, 322); and p. 13, lines 23-24; and p. 15, lines 6-7.) The web site server is operable to store identifiers, where each identifier corresponds to a computer user accessing the web site, and each identifier includes an Internet address and a time value, where the time value is associated with a launch of a web browser on the client computer system. (See, e.g., Figure 4 (400); and p. 4, lines 4-9; and p. 4, lines 17-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-24.) The web site server is operable to receive a request from a first computer user to access the web site, where the request includes a first identifier corresponding to the first computer user accessing the web site, and the first identifier includes a first Internet

address and a first time value associated with a launch of a web browser on the client computer system. (See, e.g., Figure 4 (410); and p. 4, lines 4-9; and p. 4, lines 19-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The web site server is operable to search for an identifier matching the first identifier among the one or more stored identifiers. (See, e.g., p. 4, lines 21-26; and p. 15, lines 12-14.) The web site server is operable to identify the first identifier as a distinct computer user if the searching for the first identifier did not result in a match, where a match comprises a match between the first Internet address and the Internet address in one of the stored identifiers and a match between the first time value and the time value in the same stored identifier. (See, e.g., Figure 4 (440, 450); and p. 4, lines 21-26; and p. 15, lines 12-14.)

Independent claim 19 is directed to a tangible, computer-accessible storage medium, including program instructions, where the program instructions are executable by a computer system to implement a method. (See, e.g., Figures 1 and 2; and p. 7, line 30, through p. 8, line 3; and p. 8, lines 17-26.) The method includes storing identifiers, where each identifier corresponds to a computer user accessing a web site, each identifier includes an Internet address and a time value, and the time value is associated with a launch of a web browser by a respective computer user. (See, e.g., Figure 4 (400); and p. 4, lines 4-9; and p. 4, lines 17-26; and p. 12, lines 21-22; and p. 13, lines 23-29; and p. 14, lines 23-24.) The method includes receiving a request from a first computer user to access the web site, where the request includes a first identifier corresponding to the first computer user accessing the web site, and the first identifier includes a first Internet address and a first time value associated with a launch of a web browser by the first computer user. (See, e.g., Figure 4 (410); and p. 4, lines 4-9; and p. 4, lines 19-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The method includes searching for an identifier matching the first identifier among the one or more stored identifiers. (See, e.g., Figure 4 (440); and p. 4, lines 21-26; and p. 15, lines 12-14.) The method includes identifying the first identifier as a distinct computer user if the searching for the first identifier did not result in a match, where a match comprises a match between the first Internet address and the Internet address in one of the stored identifiers and a match between the first time

value and the time value in the same stored identifier. (See, e.g., Figure 4 (450); and p. 4, lines 21-26; and p. 15, lines 12-14.)

Independent claim 20 is directed to a method for identifying a distinct computer user accessing a web site. (See, e.g., Figure 4; and Title; and p. 1, lines 5-7; and p. 4, lines 4-6; and p. 7, lines 29-30.) The method includes receiving a request from a first computer user to access the web site, where the request includes an Internet address and a time value corresponding to the first computer user accessing the web site, and the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. (See, e.g., Figure 4 (410); and p. 4, lines 4-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The method includes determining whether the first computer user is a distinct user by comparing the time value and the Internet address with a database of time value information and Internet address information compiled from previous web site accesses, where the time value information in each entry of the database is associated with a time at which a computer used by a computer user to access the web site was synchronized with a global time standard. (See, e.g., Figure 4 (440, 450); and p. 4, lines 4-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-26.)

Independent claim 26 is directed to a system for identifying a distinct computer user accessing a web site. (See, e.g., Figures 3 and 4; and Title; and p. 1, lines 5-7; and p. 4, lines 4-6; and p. 7, lines 29-30.) The system includes a client computer system operated by one or more computer users. (See, e.g., Figure 3 (306, 306a); and p. 8, lines 8-9.) The system includes a web site server computer system. (See, e.g., Figure 3 (302); and p. 4, lines 4-6; and p. 4, lines 19-21.) The client computer system is operable to connect with the web site server for gaining access to the web site in response to requests from computer users. (See, e.g., Figure 3 (304, 312, 322); and p. 13, lines 23-24; and p. 15, lines 6-7.) The web site server is operable to receive a request from a first computer user to access the web site, where the request includes an Internet address and a time value corresponding to the first computer user accessing the web site, and the time value reflects the time at which the client computer system was synchronized with a global time

standard. (See, e.g., Figure 4 (410); and p. 4, lines 4-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The web site server is operable to determine whether the first computer user is a distinct user by comparing the time value and the Internet address with a database of time value information and Internet address information compiled from previous web site accesses, where the time value information in each entry of the database is associated with a time at which a client computer was synchronized with a global time standard. (See, e.g., Figure 4 (440, 450); and p. 4, lines 4-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-26.)

Independent claim 29 is directed to a tangible, computer-accessible storage medium, including program instructions executable by a computer system to implement a method. (See, e.g., Figures 1 and 2; and p. 7, line 30, through p. 8, line 3; and p. 8, lines 17-26.) The method includes receiving a request from a first computer user to access a web site, where the request includes an Internet address and a time value corresponding to the first computer user accessing the web site, and the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. (See, e.g., Figure 4 (410); and p. 4, lines 4-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The method includes determining whether the first computer user is a distinct user by comparing the time value and the Internet address with a database of time value information and Internet address information compiled from previous web site accesses, where the time value information in each entry of the database is associated with a time at which a computer used by a computer user to access the web site was synchronized with a global time standard. (See, e.g., Figure 4 (440, 450); and p. 4, lines 4-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-26.)

Independent claim 30 is directed to a method for counting web hits at a web site. (See, e.g., Figure 4; and p. 3 lines 20-21; and p. 16, lines 19-21.) The method includes receiving a request from a computer user to access the web site, where the request includes an Internet address and a time value corresponding to the computer user accessing the web site, and the time value is associated with a launch of a web browser

on a computer operated by the computer user. (See, e.g., Figure 4 (410); and p. 4, lines 4-9; and p. 4, lines 19-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The method includes determining whether the computer user is counted as a web hit by comparing the time value and the Internet address with a database of time value information and Internet address information stored from previous web site accesses, such that the stored time value information is associated with a launch of a web browser. (See, e.g., Figure 4 (440, 450); and p. 4, lines 4-9; and p. 4, lines 17-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-24.)

Independent claim 34 is directed to a system for counting unique hits on a web site. (See, e.g., Figure 4; and p. 3 lines 20-21; and p. 16, lines 19-21.) The system includes a client computer system operated by one or more computer users. (See, e.g., Figure 3 (306, 306a); and p. 8, lines 8-9.) The system includes a web site server computer system. (See, e.g., Figure 3 (302); and p. 4, lines 4-6; and p. 4, lines 19-21.) The client computer system is operable to connect with the web site server for gaining access to said web site in response to requests from computer users. (See, e.g., Figure 3 (304, 312, 322); and p. 13, lines 23-24; and p. 15, lines 6-7.) The web site server is operable to receive a request from a computer user to access the web site, where the request includes an Internet address and a time value corresponding to the computer user accessing the web site, and the time value is associated with a launch of a web browser on a computer operated by the computer user. (See, e.g., Figure 4 (410); and p. 4, lines 4-9; and p. 4, lines 19-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The web site server is operable to determine whether the computer user is counted as a unique hit by comparing the time value and the Internet address with a database of time value information and Internet address information stored from previous web site accesses, such that the time value information in each entry of the database is associated with a launch of a web browser. (See, e.g., Figure 4 (440, 450); and p. 4, lines 4-9; and p. 4, lines 17-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-24.)

Independent claim 37 is directed to a tangible, computer-accessible storage medium, including program instructions executable by a computer system to implement a

method. (See, e.g., Figures 1 and 2; and p. 7, line 30, through p. 8, line 3; and p. 8, lines 17-26.) The method includes receiving a request from a computer user to access a web site, where the request includes an Internet address and a time value corresponding to the computer user accessing the web site, and the time value is associated with a launch of a web browser on a computer operated by the computer user. (See, e.g., Figure 4 (410); and p. 4, lines 4-9; and p. 4, lines 19-21; p. 13, lines 23-29; and p. 15, lines 6-10.) The method includes determining whether the computer user is counted as a web hit by comparing the time value and the Internet address with a database of time value information and Internet address information stored from previous web site accesses, such that the time value information stored in each entry of the database is associated with a launch of a web browser. (See, e.g., Figure 4 (440, 450); and p. 4, lines 4-9; and p. 4, lines 17-26; and p. 12, lines 21-22; p. 13, lines 23-29; and p. 14, lines 23-24.)

The summary above describes various examples and embodiments of the claimed subject matter; however, the claims are not necessarily limited to any of these examples and embodiments. The claims should be interpreted based on the wording of the respective claims.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 16, 18-20, 24, 26, 28-30, 33, 34, 36 and 37 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shapira (U.S. Patent 6,925,442) in view of what is allegedly well known in the art.

2. Claims 1-3, 5, 7-9, 11, 12, 14 and 15 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Gerace (U.S. Patent 5,991,735).

3. Claims 4, 10 and 13 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Gerace and further in view of Bodnar et al. (U.S. Patent 6,295,541) (hereinafter "Bodnar").

4. Claims 17, 23, 27, 32 and 35 stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Bodnar.

5. Claim 6 stands finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shapira and Gerace and in view of Farrow et al. (U.S. Patent 6,374,295) (hereinafter "Farrow").

6. Claim 25 stands finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Farrow.

VII. ARGUMENT

First Ground of Rejection:

The Examiner rejected claims 16, 18-20, 24, 26, 28-30, 33, 34, 36 and 37 under 35 U.S.C. § 103(a) as being unpatentable over Shapira (U.S. Patent 6,925,442) in view of what is allegedly well known in the art. Appellant traverses this rejection for at least the following reasons.

Claims 16, 18, and 19:

1. Regarding independent claim 16, contrary to the Examiner's assertion, Shapira in view of what is allegedly well known in the art clearly fails to teach or suggest ***a web site server operable to: store one or more identifiers, wherein each identifier corresponds to a computer user accessing said web site, wherein said each identifier comprises an Internet address and a time value, wherein the time value is associated with a launch of a web browser on the client computer system; receive a request from a first computer user to access the web site, wherein said request comprises a first identifier corresponding to said first computer user accessing said web site, wherein said first identifier comprises a first Internet address, and a first time value associated with a launch of a web browser on the client computer system; and identify said first identifier as a distinct computer user if said searching for said first identifier did not result in a match, wherein a match comprises a match between the first Internet address, and the Internet address in one of said one or more stored identifiers and a match between the first time value and the time value in the one of said one or more stored identifiers.***

Citing Shapira in paragraph 45 of the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner asserts that "[it] is very clear that the server receives the traffic data hit 11a and that what is sent in this traffic data hit, as explained in the tables found in column 4, is a GMT time of the request." **But**

Shapira does not teach or suggest that the GMT time of the request is sent by the remote visitor in the "traffic data hit." Rather, Shapira says in column 1, line 40, that *at the website* each hit is "encoded with the date and time of the access." In fact, Shapira states at column 7, lines 58-60, that "If the visitor address already existed at step 510, then at step 520 the date and time of the current hit are determined." Thus, Shapira explicitly teaches that the date and time of the hit are determined **at the web site only after the hit has already been received**. The "hit" referred to in Shapira is *not* described as including a time value *when it is received at the web server*.

In column 5, Shapira describes a sequence of events, saying that "upon receiving the traffic data hit" (col.5, line 35), the "first web server sends data back to the remote visitor" (col. 5, lines 37-38). Subsequently, "the first web server also writes an entry in its log file memorializing the request" (col. 5, lines 39-40). Writing of the entry into the log file includes storing "the time and date of the request" (col. 5, line 44) and storing "the request issued by the remote visitor," (col. 5, line 46). This clearly suggests that the **request** by the remote visitor (a "GET" instruction), and the **time and date of the request**, *are two distinct elements*, for memorializing the request in the web server's log file. Nowhere does Shapira teach or suggest that *the remote visitor has sent a time value in the request*, as required by claim 16. Rather, Shapira suggests that the time and date are determined at the server.

2. Further in regard to independent claim 16, even if a request in Shapira did include a time value, Shapira clearly does not teach or suggest the limitation of claim 16 that a time value included with the request is associated with the launch of a web browser on the client computer system, as recited in claim 16. In paragraph 47 of the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner asserts that "with the Examiner's scenario, a browser is opened and the 'home page' is called upon which would send a Traffic Data Hit, associated with Shapira, and in this traffic data hit there would be a time of request as taught by Shapira." As outlined in the remarks pertaining to the Examiner's paragraph 45, **the request issued by the remote visitor is not described in Shapira as including**

any time value at all, let alone a time value associated with the launch of a web browser on the client computer system. To the contrary, as shown above, Shapira explicitly teaches that the time of the request is determined at the server. In paragraph 48 of the Response to Arguments section, the Examiner asserts that it is well known that Microsoft's® Internet Explorer and Netscape's® Internet Browser have the ability to have a home page of the user's choosing open when Internet Explorer is launched. **However, the Examiner has not provided any evidence of record showing that when Microsoft's® Internet Explorer or Netscape's® Internet Browser access a home page after being launched that a time value associated with the launch of the browser is included with the request.** In fact, Appellant asserts that these browsers specifically do **not** include a time value when accessing a home page after being launched. Neither Shapira nor any other evidence of record teaches the above-noted limitation of claim 16.

3. Moreover, Shapira does not disclose using a time value included in the request, and associated with a launch of a web browser on the client computer system, to identify a first identifier as a distinct computer user, as recited in the limitations of Applicant's claim. The limitations of claim 16 recite that the "first time value associated with the launch of a web browser on the client computer system" is used to identify "a distinct computer user," in contrast with Shapira's techniques. Specifically, as is very clearly illustrated in Fig. 8 and described at col. 7, line 42 – col. 8, line 6, Shapira uses the time of the current hit only to determine whether or not the current hit is part of a current session or a new session for the same visitor. **Shapira does not use the time of the current hit to identify a *distinct* user – Shapira only uses the time of the current hit to determine whether or not the current hit is part of a current session or a new session for the same visitor.** In fact, Shapira only teaches a tracking cookie for identification of distinct users accessing a web site, described in the second table, column 4 as being "permissively used to identify a particular visitor."

4. The limitations of independent claim 16 further require that a match comprises a match between the first Internet address, and the Internet address in one of said one or more stored identifiers and a match between the first time value

and the time value in the one of said one or more stored identifiers, where <u>both</u> the time value stored by the web site server <u>and</u> the first time value included with the request <u>are associated with a launch of a web browser on the client computer system</u>. Under the Examiner's "home page" hypothetical, *Shapira's system would never have such a match*. The Examiner's unsupported hypothetical posits an initial "home page" request from a just-launched web browser possibly having a time value associated with the launch of the browser. However, to meet the limitations for a match recited in claim 16, the web server database in Shapira would have to have already stored an entry including a time value associated with the launch of the browser. This would not be possible in the Examiner's scenario, since no request prior to the "home page" request would have been received. Under the Examiner's "home page" hypothetical, the home page request would be the first request after the launch of the browser; **therefore, the web site could not already have stored an entry with a time value associated with the launch of the browser that could be compared to the time value for the "home page" request**.

5. Examiner has not provided a valid reason to modify Shapira in view of what is well known in the art.

First of all, the Examiner's assertion of what is well known in the art is actually **<u>not</u>** known in the art. Typical web browsers do not include the time of requests in the requests, let alone a time associated with the launch of the browser. No evidence of record supports the Examiner's assertion. In paragraph 14 of the Final Office Action, Examiner states that it is well known in the art that browser applications can have a "home page" that is requested when the browser application is launched. Examiner states that it would have been obvious "to synchronize a browser time with a global standard when the browser is launched because if the teachings of Shapira's synchronization with requested web pages were to occur with a "home page" that was triggered by the launching of the browser application then it would be obvious that the launching of the browser application would start the process of synchronizing the time as described above." Examiner's reasoning is circular, amorphous, and conclusory. The Examiner

fails to provide any evidence of record or any other valid reason to support his assertion. Moreover, as shown above, the Examiner's proposed combination would not result in Appellant's invention as recited in claim 16.

Independent claim 19 includes limitations similar to those discussed above regarding independent claim 16, and so the arguments presented above apply with equal force to that claim as well.

For at least the reasons above, the rejection of independent claims 16 and 19 is unsupported by the cited art and removal thereof is respectfully requested.

Claims 20, 24, 26, 28, and 29:

Independent claims 20, 26, and 29 include the limitation, "wherein the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard," or a similar limitation, and also include limitations involving determining whether the first computer user is a distinct user by comparing stored synchronization time values with synchronization time values received with a request. Shapira in view of what is well known in the art fails to teach or suggest any such synchronization, much less receiving a request that includes a time value reflecting a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard, or **determining whether the first computer user is a distinct user by comparing such a synchronization time value with stored synchronization time values.** Shapira's server is not described as receiving a time value with a request at all. Moreover, even if a time value was included with the requests in Shapira, any such time value would not reflect a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. The time values in Shapira are explicitly described as the time when the hit was received by the server, not a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. Furthermore, Shapira uses time values to

distinguish between sessions for the same visitor, not to determine whether a user is a distinct user.

In the Response to Arguments section of the office action mailed September 21, 2007, paragraph 55, the Examiner again refers to Shapira's table in column 4, and to column 5, lines 41 et seq., asserting that Shapira's time was set or "synchronized" with a global time standard. On this basis, and in reference to claim 20, the Examiner concludes that "the prior art teaches the claim language as stated by the Applicant." **The Examiner has apparently misread the claim.** The claim does not state that the time is recorded in a global time format. Instead, the claim recites that the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard. In contrast, Shapira explicitly teaches, e.g., in column 1, line 40, that each hit is encoded with date and time of access. Thus, the time recorded in Shapira is the time the web server is accessed, not a time when the user's computer was synchronized to a global time standard. Moreover, as elaborated before, the date and time of access in Shapira is memorialized by the server itself, not sent to the server by the remote visitor's computer. Shapira mentions absolutely nothing of the remote visitor's computer being synchronized with a global time standard, as recited claim 20, nor that the request sent by the remote visitor's computer includes a time value reflecting a time at which the computer was synchronized with a global time standard, as further recited in claim 20.

For at least the reasons above, the rejection of independent claims 20, 26, and 29 is not supported by the cited art and removal thereof is respectfully requested.

Claims 30, 33, 34, 36, and 37:

1. Regarding independent claim 30, contrary to the Examiner's assertion, Shapira in view of what is well known in the art clearly fails to teach or suggest receiving a request from a computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said

computer user accessing said web site, wherein *said time value is associated with a launch of a web browser on a computer operated by said computer user*; determining whether the computer user is counted as a web hit by *comparing said time value and said Internet address with a database of time value information and Internet address information stored from previous web site accesses, wherein said stored time value information is associated with a launch of a web browser*.

Citing Shapira in paragraph 45 of the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner asserts that "[it] is very clear that the server receives the traffic data hit 11a and that what is sent in this traffic data hit, as explained in the tables found in column 4, is a GMT time of the request." **But Shapira does not teach or suggest that the GMT time of the request is sent by the remote visitor in the "traffic data hit."** Rather, Shapira says in column 1, line 40, that *at the website* each hit is "encoded with the date and time of the access." In fact, Shapira states at column 7, lines 58-60, that "If the visitor address already existed at step 510, then at step 520 the date and time of the current hit are determined." Thus, Shapira explicitly teaches that the date and time of the hit are determined **at the web site only after the hit has already been received**. The "hit" referred to in Shapira is *not* described as including a time value *when it is received at the web server*.

In column 5, Shapira describes a sequence of events, saying that "upon receiving the traffic data hit" (col.5, line 35), the "first web server sends data back to the remote visitor" (col. 5, lines 37-38). Subsequently, "the first web server also writes an entry in its log file memorializing the request" (col. 5, lines 39-40). Writing of the entry into the log file includes storing "the time and date of the request" (col. 5, line 44) and storing "the request issued by the remote visitor," (col. 5, line 46). This clearly suggests that the **request** by the remote visitor (a "GET" instruction), and the **time and date of the request**, *are two distinct elements*, for memorializing the request in the web server's log file. Nowhere does Shapira teach or suggest that *the remote visitor has sent a time value in the request*, as required by claim 30. Rather, Shapira suggests that the time and date are determined at the server.

2. Further in regard to independent claim 30, even if a request in Shapira did include a time value, Shapira does not teach or suggest the limitation of claim 30 that a time value included with the request is associated with the launch of a web browser on the client computer system, as recited in claim 30. In paragraph 47 of the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner asserts that "with the Examiner's scenario, a browser is opened and the 'home page' is called upon which would send a Traffic Data Hit, associated with Shapira, and in this traffic data hit there would be a time of request as taught by Shapira." As outlined in the remarks pertaining to the Examiner's paragraph 45, **the request issued by the remote visitor is not described in Shapira as including a time value**. In paragraph 48 of the Response to Arguments section, the Examiner asserts that it is well known that Microsoft's® Internet Explorer and Netscape's® Internet Browser have the ability to have a home page of the user's choosing open when Internet Explorer is launched. **However, the Examiner has not provided any evidence of record showing that when Microsoft's® Internet Explorer or Netscape's® Internet Browser access a home page after being launched that a time value associated with the launch of the browser is included with the request.** Neither Shapira nor any other evidence of record teaches the above-noted limitation of claim 30.

3. Moreover, Shapira does not disclose using a time value included in the request, and associated with a launch of a web browser on the client computer system, to determine whether the computer user is counted as a web hit, as recited in the limitations of Applicant's claim. The limitations of claim 30 recite that the time value associated with a launch of a web browser on the client computer system is used to identify a distinct computer user, in contrast with Shapira's techniques. Specifically, as is very clearly illustrated in Fig. 8 and described at col. 7, line 42 – col. 8, line 6, Shapira uses the time of the current hit only to determine whether or not the current hit is part of a current session or a new session for the same visitor. **Shapira does not use the time of the current hit to identify a distinct user – Shapira only uses the time of the current hit to determine whether or not the current hit is part of a current session or a new**

session for the same visitor. In fact, Shapira only teaches a tracking cookie for identification of distinct users accessing a web site, described in the second table, column 4 as being "permissively used to identify a particular visitor."

Independent claims 34 and 37 include limitations similar to those discussed above regarding independent claim 30, and so the arguments presented above apply with equal force to those claims as well.

For at least the reasons above, the rejection of independent claims 30, 34, and 37 is unsupported by the cited art and removal thereof is respectfully requested.

Second Ground of Rejection:

The Examiner rejected claims 1-3, 5, 7-9, 11, 12, 14 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Gerace (U.S. Patent 5,991,735). Appellant traverses this rejection for at least the following reasons.

Claims 1, 2, 5, 8, 9, 11, and 15:

1. **Regarding independent claim 1, Shapira in view of Gerace clearly fails to teach or suggest receiving a first request from a first computer to access the web site, sending a request for information to the first computer, where the information includes a first Internet address and a first time value corresponding to the first computer, receiving the information and determining whether a matching record for the first Internet address and the first time value exists in the database**. The Examiner admits that Shapira fails to teach sending a request for information including an Internet address and a first time value corresponding to the first computer in the context of receiving a request from the first computer to access a web site and determining whether a matching record for the Internet address and time value. The Examiner relies on Gerace, citing column 13, line 56 – column 14, line 25 and column

16, lines 45 –55, "stored locally on user's PC is a cookie", "request for cookie", and "newly built cookie is a unique user identification code, time and date of login, and computer identification number". Gerace teaches requesting login information, such as a user name and password, from a user accessing a web site and then creating a cookie to store a unique user ID code, the time and date of login, and a computer ID number, which the Examiner submits could be interpreted as an Internet address. When a user requests a web page, the web server transmits a login advertisement screen view and a request for the cookie.

Shapira teaches that each time a computer accesses the web server, the traffic data history is stored in a log file. Each record in the log file includes the IP address and the date/time of the access (Shapira, column 4, lines 26-49). Shapira teaches that the log of hit information is then analyzed to assign qualification profiles to the visitor's session in order to evaluate the quality and/or value of the visitor. Shapira's system already includes determining the IP address and the date/time of access from the traffic hit data supplied when the client computer requests access to web pages. **Thus, there would be no need to modify Shapira's system to include the cookies of Gerace to collect this information since the information is already logged in Shapira's system.**

The Examiner contends it would have been obvious to combine Gerace with Shapira "because requesting a login from a user enables … the system to identify who the specific user is and what their preferences are if they have set up an account." The Examiner further submits, "Also, it is well known in the art that utilizing a login and identification system enables a system added security from predators that are not privileged to specific information pertaining to a user." Applicant asserts that there is nothing in Shapira to suggest the need or usefulness of such a system. In fact, requiring user login by requesting user name and password would not make sense in Shapira's system. Shapira teaches a system for assigning various profiles to users accessing a web server in order to help determine the relative value of various advertising campaigns for a web site. Thus, Shapira is concerned with counting the various users accessing a web site via various advertising links to the web site. Requiring a user name and password would

surely be counter to a system intended to determine the quality and value of visitors (not members) to a web site. Since the use of cookies and user registrations are typically considered to be intrusive to visitors, requiring user login by requesting a user name and password, as taught by Gerace would not make sense in a system designed to analyze visitors visiting a web site via advertising links, as taught by Shapira.

In the Response to Arguments section of the Office Action mailed September 21, 2007, Examiner again cites Shapira in view of Gerace in paragraph 55, writing that "the use of Gerace's cookies and the information stored in those cookies, time and IP address, in combination with Shapira, teaches the claim language. However, Shapira teaches, in column 22, line 16, that each visitor session has its own unique timing clock, which the server constructs, as outlined above, by encoding the date and time of access of each hit into its log file. Therefore Shapira's system has no need for what the Examiner calls "Gerace's cookies and the information stored in those cookies" to generate the unique timing clocks. Applicant asserts that the Examiner's reasoning completely unsupported by the actual teachings of the cited art.

In paragraph 55 of the Response to Arguments section, the Examiner states that he is using the same rationale to combine the teachings of the references that Applicant uses in his invention. **However, the Applicant's own rationale is not prior art. It is a fundamental premise of patent law that the Applicant's own teachings cannot be used against him.** Therefore, on its face, the Examiner's rejection is improper.

Furthermore, the teachings of Gerace pertain to a login request, whereas Shapira's system pertains to hits that are part of ongoing or new sessions. The login cookie of Grace is not applicable to the session hits in Shapira's system.

Moreover, requiring user login by requesting user name and password would not make sense in Shapira's system. Shapira teaches a system for assigning various profiles to users accessing a web server in order to help determine the relative value of various advertising campaigns for a web site. Thus, Shapira is concerned with counting the

various users accessing a web site via various advertising links to the web site. Requiring a user name and password would surely be counter to a system intended to determine the quality and value of visitors (not members) to a web site. Since the use of cookies and user registrations are typically considered to be intrusive to visitors, requiring user login by requesting a user name and password, as taught by Gerace would not make sense in a system designed to analyze visitors visiting a web site via advertising links, as taught by Shapira.

2. Further in regard to claim 1, the cited art does not teach or suggest *determining whether a matching record for said first Internet address and said first time value exists in said database; and identifying said first computer as a distinct user if said matching record does not exist in said database*. Specifically, as is very clearly illustrated in Fig. 8 and described at col. 7, line 42 – col. 8, line 6, Shapira uses the time of the current hit only to determine whether or not the current hit is part of a current session or a new session for the same visitor. **Shapira does not use the time of the current hit to identify a distinct user – Shapira only uses the time of the current hit to determine whether or not the current hit is part of a current session or a new session for the same visitor.** In fact, Shapira only teaches a tracking cookie for identification of distinct users accessing a web site, described in the second table, column 4 as being "permissively used to identify a particular visitor." The "matching" described in Shapira is for distinguishing between sessions of the same visitor, not for identifying distinct users.

Therefore, for at least the reasons above, the rejection of independent claim1 is not supported by the cited art and removal thereof is respectfully requested. Similar remarks also apply to independent claims 9 and 15.

Claim 3:

1. Regarding dependent claim 3, Shapira in view of Gerace clearly fails to teach or suggest that the time value is associated with a user-defined event, namely the launch of web browser software on the first computer.

In paragraph 28 of the Final Office Action, Examiner states that it is well known in the art that browser applications can have a "home page" that is requested when the browser application is launched. Examiner states that it would have been obvious "to synchronize a browser time with a global standard when the browser is launched because if the teachings of Shapira's synchronization with requested web pages were to occur with a "home page" that was triggered by the launching of the browser application then it would be obvious that the launching of the browser application would start the process of synchronizing the time as described above." Examiner's reasoning is circular, amorphous, and conclusory. The Examiner fails to provide any evidence of record or any other valid reason to support his assertion. Nothing in the evidence of record suggests that a server would send a request to another computer for information including a time value associated with a launch of a web browser on that computer.

For at least the reasons above, the rejection of dependent claim 3 is not supported by the cited art and removal thereof is respectfully requested.

Claim 7:

1. Regarding dependent claim 7, Shapira in view of Gerace clearly fails to teach or suggest identifying a first computer as a distinct computer only if the matching record does not exist in the database or if the timestamp for the matching record is older than a predetermined maximum time.

Shapira uses the time of the current hit only to determine whether or not the current hit is part of a current session or a new session for the same visitor. **Shapira does**

not use the time of the current hit to identify a distinct user – Shapira only uses the time of the current hit to determine whether or not the current hit is part of a current session or a new session for the same visitor. In fact, Shapira only teaches a tracking cookie for identification of distinct users accessing a web site, described in the second table, column 4 as being "permissively used to identify a particular visitor." Shapira, even when considered with Gerace, certainly does not suggest identifying a first computer as a distinct computer only if the matching record does not exist in the database or if the timestamp for the matching record is older than a predetermined maximum time.

For at least the reasons above, the rejection of dependent claim 7 is not supported by the cited art and removal thereof is respectfully requested.

Claims 12 and 14:

Regarding independent claim 12, contrary to the Examiner's assertion, Shapira in view of Gerace clearly fails to teach or suggest a client computer system that is operable to: launch a web browser software; execute a program to synchronize time; send a first request to said web site server to access the web site; receive a request for information from said web site server, wherein said information comprises a first Internet address and a first time value corresponding to said client computer system; and send said information.

The Examiner rejected independent claim 12 for the same reasons as claims 1, 2, 3, 5, 7, and 8. However, claim 12 includes limitations not recited in any of these claims. For example, claim 12 recites, "wherein the client computer system is operable to…**execute a program to synchronize time**," which is not recited in claims 1, 2, 3, 5, 7, and 8, and is not taught by Shapira in view of Gerace. **Since the Examiner failed to address the differences between claims 1, 2, 3, 5, 7, and 8 on the one hand, and claim 12 on the other, the Examiner has failed to state a *prima facie* rejection of claim 12.**

Claim 12 does include some limitations similar to some of those discussed above regarding claim 1. Therefore, in regard to those limitations, the arguments presented above apply with equal force to this claim, as well. For example, as discussed above in regard to claim 1, the cited art does not teach or suggest a client computer that is operable to: receive a request for information from said web site server, wherein said information comprises a first Internet address and a first time value corresponding to said client computer system; and send said information.

For at least the reasons above, the rejection of claim 12 is unsupported by the cited art and removal thereof is respectfully requested.

Third Ground of Rejection:

The Examiner rejected claims 4, 10 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Gerace and further in view of Bodnar et al. (U.S. Patent 6,295,541) (hereinafter "Bodnar"). Appellant traverses this rejection for at least the following reasons.

Claims 4 and 10:

1. Regarding dependent claim 4, Shapira in view of Gerace and further in view of Bodnar clearly fails to teach or suggest the method of claim 1, where the time value is generated by a time keeping device, and the time keeping device is configured to synchronize the time value with a global time-keeping standard clock.

At paragraph 34 of the Final Office Action, the Examiner states that "Shapira and Gerace teach said time value is generated by a time keeping device as described above, but do not specifically teach wherein said time keeping device is configured to synchronize said time value with a global time keeping standard clock." Examiner cites Bodnar at column 9, lines 18-60 to remedy this deficiency, asserting that "Bodnar teaches

said time keeping device is configured to synchronize said time value with a global time keeping standard clock." But **Bodnar synchronizes multiple datasets**. [Title] The cited passage in Bodnar addresses the use of **timestamps** to **compare the relative timing for events on multiple datasets**. Bodnar may synchronize the various clocks on the respective devices for several datasets, but Bodnar does *not* teach or suggest synchronizing a time value of a time-keeping device with a global time-keeping standard clock. Bodnar's clocks on the respective dataset devices may themselves be kept in synchronization with each other, either to the same value, or to equivalent values, or to values having a constant offset. Applicant reiterates that the synchronization of Bodnar is made to synchronize various dataset devices with each other, not to synchronize a time value of a time-keeping device with a global time-keeping standard clock.

Continuing in the same passage cited by the Examiner, Bodnar states that in specific situations, his invention will work directly with timestamps from the clock of a *particular* dataset's device ***without*** **first converting such timestamps to a common time**. Bodnar declares *that this is done*, when possible, *to minimize problems due to any relative drift in the devices' clocks, such as drifts caused by clock inaccuracies or drifts caused by the user's re-setting of a clock on a device*. Thus, Bodnar uses the timestamps of one ***particular*** dataset's device so as to minimize or eliminate problems due to ***relative*** **drift** among a ***multiplicity*** of device clocks. This has absolutely no bearing on the limitations of Applicant's claim, that **the time keeping device is configured to synchronize the time value with a global time-keeping standard clock.**

Examiner asserts that it would have been obvious to combine Bodnar with Shapira and Gerace "because synchronizing clocks minimizes problems due to any relative drift in the devices' clocks, such as drifts caused by clock inaccuracies or drifts caused by the user's re-setting of a clock on a device," but does not explain what the cited "problems due to any relative drift in the devices' clocks" would be in the setting of Shapira. Moreover, Shapira accomplishes his aim of tracking visitor sessions, as described in the text from column 7, line 42 to column 8, line 6, without any need for correcting discrepancies between the time value on the user's computer and the time

value on a global time-keeping standard clock. Shapira's web server logs its own time values for each traffic data hit associated with a visitor session. [column 5, lines 39-50] Shapira emphasizes at column 7, lines 47-51, that his system tracks visitor sessions for single visitors, and the calculations associated with Figure 8 and its corresponding description [Shapira, column 7, line to column 8, line 6] are all made with respect to *time values logged by the web server*. The system of Shapira is impervious to clock drift on the user's computer.

The Examiner fails to provide any evidence of record or any other valid reason to support the modification of Shapira and Gerace with Bodnar. Furthermore, the Examiner has not explained *how* to combine Bodnar with Shapira and Gerace in a manner that would result in Appellants' claimed invention.

Claim 13:

The rejection of claim 13 is improper for at least the reasons discussed above in regard to claim 12 and claim 4.

Fourth Ground of Rejection:

The Examiner rejected claims 17, 23, 27, 32 and 35 under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Bodnar. Appellant traverses this rejection for at least the following reasons.

Claim 17:

Regarding dependent claim 17, Shapira in view of Bodnar clearly fails to teach or suggest a time keeping device of the web site server computer system, where the time value of the time keeping device is synchronized with a global time keeping standard clock.

At paragraph 37 of the Final Office Action, the Examiner states that "Shapira teaches said time value is generated by a time keeping device as described above, but do not specifically teach wherein said time keeping device is configured to synchronize said time value with a global time keeping standard clock." Examiner cites Bodnar at column 9, lines 18-60 to remedy this deficiency, asserting that "Bodnar teaches said time keeping device is configured to synchronize said time value with a global time keeping standard clock." But **Bodnar synchronizes multiple datasets**. [Title] The cited passage in Bodnar addresses the use of **timestamps** to **compare the relative timing for events on multiple datasets**. Bodnar may synchronize the various clocks on the respective devices for several datasets, but Bodnar does *not* teach or suggest synchronizing a time value of a time-keeping device with a global time-keeping standard clock. Bodnar's clocks on the respective dataset devices may themselves be kept in synchronization with each other, either to the same value, or to equivalent values, or to values having a constant offset. Applicant reiterates that the synchronization of Bodnar is made to synchronize various dataset devices with each other, not to synchronize a time value of a time-keeping device with a global time-keeping standard clock.

Continuing in the same passage cited by the Examiner, Bodnar states that in specific situations, his invention will work directly with timestamps from the clock of a *particular* dataset's device ***without*** **first converting such timestamps to a common time**. Bodnar declares *that this is done*, when possible, *to minimize problems due to any relative drift in the devices' clocks, such as drifts caused by clock inaccuracies or drifts caused by the user's re-setting of a clock on a device*. Thus, Bodnar uses the timestamps of one ***particular*** dataset's device so as to minimize or eliminate problems due to ***relative*** **drift** among a ***multiplicity*** of device clocks. This has absolutely no bearing on the limitations of Applicant's claim, for **synchronizing the time value of the time keeping device with a global time keeping standard clock.**

Examiner asserts that it would have been obvious to combine Bodnar with Shapira "because synchronizing clocks minimizes problems due to any relative drift in

the devices' clocks, such as drifts caused by clock inaccuracies or drifts caused by the user's re-setting of a clock on a device," but does not explain what the cited "problems due to any relative drift in the devices' clocks" would be in the setting of Shapira. Moreover, Shapira accomplishes his aim of tracking visitor sessions, as described in the text from column 7, line 42 to column 8, line 6, without any need for correcting discrepancies between the time value on the user's computer and the time value on a global time-keeping standard clock. Shapira's web server logs its own time values for each traffic data hit associated with a visitor session. [column 5, lines 39-50] Shapira emphasizes at column 7, lines 47-51, that his system tracks visitor sessions for single visitors, and the calculations associated with Figure 8 and its corresponding description [Shapira, column 7, line to column 8, line 6] are all made with respect to *time values logged by the web server*. The system of Shapira is impervious to clock drift on the user's computer.

The Examiner fails to provide any evidence of record or any other valid reason to combine Bodnar with Shapira. Furthermore, the Examiner has not explained *how* to combine Bodnar with Shapira in a manner that would result in Appellant's claimed invention.

Claims 23 and 27:

The rejection of claims 23 and 27 is improper for at least the reasons discussed above in regard to claim 20 and claim 17.

Claims 32 and 35:

The rejection of claims 32 and 35 is improper for at least the reasons discussed above in regard to claim 30 and claim 17.

Fifth Ground of Rejection:

The Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Gerace and further in view of Farrow et al. (U.S. Patent 6,374,295) (hereinafter "Farrow"). Appellant traverses this rejection for at least the following reasons.

Claim 6:

Regarding dependent claim 6, Shapira in view of Gerace and further in view of Farrow clearly fails to teach or suggest that the database is an object oriented database or a relational database.

Examiner states that "Shapira and Gerace do not specifically teach the database is an object oriented database or a relational database." To remedy this deficiency, the Examiner cites Farrow, whose invention "relates to the field information networking and more specifically to transmitting configuration information between a central database and one or more servers in a network." [column 1, lines 5-9] The central database of Farrow "is utilized to store network configuration information" according to the cited text at column 3, line 61 to column 4, line 17. Farrow states that because the central database is relational, it can log any configuration changes in a separate area. The Examiner asserts that it would be obvious to combine Farrow with Shapira and Gerace "because relational databases can log any configuration changes in a separate area, therefore, giving the system possible versatility." But the logging of "configuration changes in a separate area" has no bearing upon Shapira's method for "determining the value of visitors to a web site" or upon Gerace's apparatus for "determining the profile of a computer user." Neither Shapira nor Gerace is directed at Farrow's "transmitting configuration information between a central database and one or more servers in a network." There does not appear to be any reason to use a relational database in Shapira's system. Moreover, even if the database of Shapira were relational, the cited art would still not yield the limitations of independent claim 1 and its dependent claim 6.

Additionally, the Examiner has not explained what is meant by the hypothetical "giving the system possible versatility," nor is there an indication of how to combine Farrow with Shapira and Gerace in a manner that would result in Appellant's claimed invention. The Examiner fails to provide any evidence of record or any other valid reason to combine Farrow with Shapira and Gerace.

For at least the reasons above, the rejection of dependent claim 6 is unsupported by the cited art and removal thereof is respectfully requested.

Sixth Ground of Rejection:

The Examiner rejected claim 25 under 35 U.S.C. § 103(a) as being unpatentable over Shapira in view of Farrow. Appellant traverses this rejection for at least the following reasons.

Claim 25:

Regarding dependent claim 25, Shapira in view of Farrow clearly fails to teach or suggest that the database is an object oriented database or a relational database.

At paragraph 42 of the Final Office Action, Examiner states that "Shapira does not specifically teach the database is an object oriented database or a relational database." To remedy this deficiency, the Examiner cites Farrow, whose invention "relates to the field information networking and more specifically to transmitting configuration information between a central database and one or more servers in a network." [column 1, lines 5-9] The central database of Farrow "is utilized to store network configuration information" according to the cited text at column 3, line 61 to column 4, line 17. Farrow states that because the central database is relational, it can log any configuration changes

in a separate area. The Examiner asserts that it would be obvious to combine Farrow with Shapira "because relational databases can log any configuration changes in a separate area, therefore, giving the system possible versatility." But the logging of "configuration changes in a separate area" has no bearing upon Shapira's method for "determining the value of visitors to a web site." Shapira is not directed at Farrow's "transmitting configuration information between a central database and one or more servers in a network." There does not appear to be any reason to use a relational database in Shapira's system. Moreover, even if the database of Shapira were relational, the cited art would still not yield the limitations of independent claim 20 and its dependent claim 25.

Additionally, the Examiner has not explained what is meant by the hypothetical "giving the system possible versatility," nor is there an indication of how to combine Farrow with Shapira. The Examiner fails to provide any evidence of record or any other valid reason to combine Farrow with Shapira.

For at least the reasons above, the rejection of dependent claim 25 is unsupported by the cited art and removal thereof is respectfully requested.

CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 1-20, 23-30, and 32-37 was erroneous, and reversal of his decision is respectfully requested.

The Commissioner is authorized to charge the appeal brief fee and any other fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5596-00200/RCK.

Respectfully submitted,

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Date: April 28, 2008

VIII. CLAIMS APPENDIX

The claims on appeal are as follows.

1. A method for identifying distinct users accessing a web site, the method comprising:

storing one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a different computer accessing said web site;

receiving a first request from a first computer to access the web site;

sending a request for information to said first computer, wherein said information comprises a first Internet address and a first time value corresponding to said first computer;

receiving said information;

determining whether a matching record for said first Internet address and said first time value exists in said database; and

identifying said first computer as a distinct user if said matching record does not exist in said database.

2. The method of claim 1, wherein said time value is associated with a user-defined event.

3. The method of claim 2, wherein said user-defined event is a launch of a web browser software on said first computer.

4. The method of claim 1, wherein said time value is generated by a time keeping device, wherein said time keeping device is configured to synchronize said time value with a global time keeping standard clock.

5. The method of claim 1, wherein said Internet address is an Internet Protocol (IP) address.

6. The method of claim 1, wherein the database is an object oriented database or a relational database.

7. The method of claim 1, further comprising generating and updating a timestamp for each record, wherein said identifying comprises identifying said first computer as a distinct computer user only if said matching record does not exist in said database or if said timestamp for said matching record is older than a predetermined maximum time.

8. The system of claim 1, wherein said first computer is a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television.

9. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by one or more computer users;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to requests from said one or more computer users; and

wherein the web site server is operable to:

store one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a computer user accessing said web site;

receive a first request from a first computer user to access the web site;

send a request for information to said first computer user, wherein said information comprises a first Internet address and a first time value corresponding to said first computer user;

receive said information;

determine whether a matching record for said first Internet address and said first time value exists in said database;

identify said first computer user as a distinct computer user if said matching record does not exist in said database.

10. The system of claim 9, further comprising a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

11. The system of claim 9, wherein said client computer system is one of the following: a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or an Internet-enabled television.

12. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by a computer user; and

a web site server, wherein the web site server is operable to connect with the client computer system for providing web site access to said client computer system in response to a request from said computer user,

wherein the client computer system is operable to:

launch a web browser software;

execute a program to synchronize time;

send a first request to said web site server to access the web site;

receive a request for information from said web site server, wherein said information comprises a first Internet address and a first time value corresponding to said client computer system; and

send said information.

13. The system of claim 12, wherein said web site server further comprises a time keeping device configured to maintain a time value by synchronizing said time value with a global time keeping standard clock.

14. The system of claim 12, wherein said client computer system comprises a personal computer or a laptop computer or a notebook computer or an Internet-enabled cellular phone or an Internet-enabled personal digital assistant or a web television system.

15. A tangible, computer-accessible storage medium, comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

storing one or more records in a database, wherein each record comprises an Internet address and a time value, and wherein each record corresponds to a distinct computer access to a web site;

receiving a first request from a first computer to access the web site;

sending a request for information to said first computer, wherein said information comprises a first Internet address and a first time value corresponding to said first computer;

receiving said information;

determining whether a matching record for said first Internet address and said first time value exists in said database;

identifying said first computer as a distinct computer user if said matching record does not exist in said database.

16. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by one or more computer users;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to requests from said one or more computer users; and

wherein the web site server is operable to:

store one or more identifiers, wherein each identifier corresponds to a computer user accessing said web site, wherein said each identifier comprises an Internet address and a time value, wherein the time value is associated with a launch of a web browser on the client computer system;

receive a request from a first computer user to access the web site, wherein said request comprises a first identifier corresponding to said first computer user accessing said web site, wherein said first identifier comprises a first Internet address, and a first time value associated with a launch of a web browser on the client computer system;

search for an identifier matching said first identifier among said one or more stored identifiers;

identify said first identifier as a distinct computer user if said searching for said first identifier did not result in a match, wherein a match comprises a match between the first Internet address, and the Internet address in one of said one or more stored identifiers and a match between the first time value and the time value in the one of said one or more stored identifiers.

17. The system of claim 16, further comprising a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

18. The system of claim 16, wherein said client computer system comprises a personal computer or a laptop computer or a notebook computer or an Internet-enabled cellular phone or an Internet-enabled personal digital assistant or a web television system.

19. A tangible, computer-accessible storage medium, comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

storing one or more identifiers, wherein each identifier corresponds to a computer user accessing a web site, wherein said each identifier comprises an Internet address and a time value, wherein the time value is associated with a launch of a web browser by a respective computer user;

receiving a request from a first computer user to access the web site, wherein said request comprises a first identifier corresponding to said first computer user accessing said web site, wherein said first identifier comprises a first Internet address, and a first time value associated with a launch of a web browser by the first computer user;

searching for an identifier matching said first identifier among said one or more stored identifiers;

identifying said first identifier as a distinct computer user if said searching for said first identifier did not result in a match, wherein a match comprises a match between the first Internet address and the Internet address in one of said one or more stored identifiers, and a match between the first time value and the time value in the one of said one or more stored identifiers.

20. A method for identifying a distinct computer user accessing a web site, the method comprising:

receiving a request from a first computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site, wherein the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard;

determining whether the first computer user is a distinct user by:

comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses, wherein time value information in each entry of said database is associated with a time at which a computer used by a computer user to access the web site was synchronized with a global time standard.

23. The method of claim 20, wherein said time value is generated by a time keeping device, wherein said time value is synchronized with the global time keeping standard clock by said time keeping device.

24. The method of claim 20, wherein said Internet address is an Internet Protocol (IP) address.

25. The method of claim 20, wherein the database is an object oriented database or a relational database.

26. A system for identifying a distinct computer user accessing a web site, the system comprising:

a client computer system operated by one or more computer users;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to requests from said one or more computer users; and

wherein the web site server is operable to:

receive a request from a first computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site, wherein a time value reflects the time at which the client computer system was synchronized with a global time standard;

determine whether the first computer user is a distinct user by:

comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses, wherein time value information in each entry of said database is associated with a time at which a client computer was synchronized with a global time standard.

27. The system of claim 26, further comprising a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

28. The system of claim 26, wherein said client computer system comprises a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or a web television system.

29. A tangible, computer-accessible storage medium, comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

receiving a request from a first computer user to access a web site, wherein said request comprises an Internet address and a time value corresponding to said first computer user accessing said web site, wherein the time value reflects a time at which a computer used by the first computer user to access the web site was synchronized with a global time standard;

determining whether the first computer user is a distinct user by:

comparing said time value and said Internet address with a database of time value information and Internet address information compiled from previous web site accesses, wherein time value information in each entry of said database is associated with a time at which a computer used by a computer user to access the web site was synchronized with a global time standard.

30. A method for counting web hits at a web site, the method comprising:

receiving a request from a computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said computer user accessing said web site, wherein said time value is associated with a launch of a web browser on a computer operated by said computer user;

determining whether the computer user is counted as a web hit by:

comparing said time value and said Internet address with a database of time value information and Internet address information stored

from previous web site accesses, wherein said stored time value information is associated with a launch of a web browser.

32. The method of claim 30, wherein said time value is generated by a time keeping device, wherein said time value is synchronized with a global time keeping standard clock by said time keeping device.

33. The method of 30, wherein said Internet address is an Internet Protocol (IP) address.

34. A system for counting unique hits on a web site, the system comprising:

a client computer system operated by one or more computer users;

a web site server computer system;

wherein the client computer system is operable to connect with the web site server for gaining access to said web site in response to requests from said one or more computer users; and

wherein the web site server is operable to:

receive a request from a computer user to access the web site, wherein said request comprises an Internet address and a time value corresponding to said computer user accessing said web site, wherein said time value is associated with a launch of a web browser on a computer operated by said computer user;

determine whether the computer user is counted as a unique hit by:

comparing said time value and said Internet address with a database of time value information and Internet address information stored from previous web site accesses, wherein time value information in each entry of said database is associated with a launch of a web browser.

35. The system of claim 34, further comprising:

a time keeping device of said web site server computer system, wherein a time value of said time keeping device is synchronized with a global time keeping standard clock.

36. The system of claim 34, wherein said client computer system comprises a personal computer, a laptop computer, a notebook computer, an Internet-enabled cellular phone, an Internet-enabled personal digital assistant, or a web television system.

37. A tangible, computer-accessible storage medium, comprising program instructions, wherein the program instructions are executable by a computer system to implement a method of:

receiving a request from a computer user to access a web site, wherein said request comprises an Internet address and a time value corresponding to said computer user accessing said web site, wherein said time value is associated with a launch of a web browser on a computer operated by said computer user;

determining whether the computer user is counted as a web hit by:

comparing said time value and said Internet address with a database of time value information and Internet address information stored from previous web site accesses, wherein said time value

information stored in each entry of said database is associated with a launch of a web browser.

IX. EVIDENCE APPENDIX

No evidence submitted under 37 CFR §§ 1.130, 1.131 or 1.132 or otherwise entered by the Examiner is relied upon in this appeal.

X. RELATED PROCEEDINGS APPENDIX

There are no related proceedings.